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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/502,047

07/29/2004

Yasuo Ibuki

P25723

2453

7055 7590 02/21/2008
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EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

NOTIFICATION DATE

DELIVERY MODE

02/21/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Office Action Summary	Application No. 10/502,047	Applicant(s) IBUKI ET AL.	
	Examiner SEAN M. MICHALSKI	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-23 and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Borst (5,671,535) in view of Dekker (EP 0 652 087 A1) as set forth in the previous action, dated 09/06/2007.

6. Claims 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Borst in view of Dekker as applied to claims 15-23 and 25-33 above, and further in view of Momose (US 5,920,988) as applied in the previous action dated 09/06/2007.

Response to Arguments

7. Applicant's arguments filed 12/06/2007 have been fully considered but they are not persuasive.

Regarding applicants amendments to claims 20, 25, 30 and 32, these amendments are in accordance with the understanding examiner had of the claims

previously, and merely clarifies the meaning of the claims in accordance therewith. The 35 U.S.C. §112 rejections are hereby withdrawn.

Applicant alleges on pages 10 and 11 of the 12/06/2007 submission that Van Der Borst and Dekker “fail to teach or suggest the subject matter in claims 15 and 25. In particular, claim 15 sets forth...” and applicant proceeds to list a number of elements that are clearly present in VanDer Borst, and are cited as such in the office action of 09/06/2007. Applicant is making a general allegation of patentability without relying on any evidence whatsoever. The allegation that the references cited do not contain certain elements must be supported by evidence of a Clear and Convincing nature in order to appropriately rebut the prima facie case of obviousness. Applicant has provided no evidence or rational argument of any nature that the prior art fails to teach any element of the claims, and as such the arguments are deemed wholly un-persuasive.

Applicant continues listing elements of the claims at the bottom of page 11; none of which are stated, alleged, or presented with evidence that the references fail to teach any of the elements. There is no true argument present.

The allegation that “the present invention comprises an electric razor having advantages over the prior art” is not supported by any evidence, nor a convincing line of reasoning. In order to overcome a prima facie case of obviousness, applicant has the burden of proof to submit evidence of a clear or convincing nature that overcomes the rejection. No evidence of this or any nature has been presented that there is any claimed differences between the prior art and the claims.

Applicant alleges that Van der Borst does not disclose any particular driving frequency, amplitude or revolutions per unit time. This is incorrect. As stated in the previous action, see **figure 5** which shows the different speeds the razor is driven at. Also see Figures 6, 7, 9, 10 and 11, which show controllers which control the speeds of the driving. If it is driven at different speeds, then it is controlled. The control sets speeds. Speeds inherently relate to frequency and revolutions per unit time. **It is inherent that the Van Der Borst razor will have “a predetermined driving frequency and a predetermined driving amplitude” since those properties are always present.** Look at figure 5; if the input to the razor is B and L then the output is 4. The table shows the relation of input to output; therefore under the same circumstances the same result occurs every time. **The output will always have defined speed characteristics that are predetermined.** They happen to be predetermined by the inputs, according to the table of figure 5, but they are always predetermined.

Regarding applicant allegation of impermissible hindsight, this is incorrect. The blade speed could be selected according to routine experimentation. Applicant has provided no evidence that disputes this simple fact.

Applicant also alleges that there “is nothing ...that would lead one of ordinary skill in the art to make the modification suggested...” based on the Disclosure of Dekker. Dekker specifically discloses a blade speed that overlaps applicants, Which is disclosed *by Dekker* as “improve[ing] the shaving performance”. Which is a clear prior art suggestion and motivation to try the blade speed that is given in Dekker. It has been held that a motivation to try constitutes a motivation, unless it is shown that one of

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ordinary skill would have been unable to make the combination. See *KSR International Co. v Teleflex Inc. et al.* US Supreme Court, No. 04-1350, 550 U.S. _____ (2007), which states "a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." Slip op. at 17. Thus hindsight plays no part in the combination of Van Der Borst with Dekker.

The allegation that dependent claims are allowable due to the underlying allowability of the base claim is moot, since the underlying base claims have been held as rejected.

Applicant further alleges (pp. 17) that MOMOSE fails to cure the deficiencies of Van Der Borst and Dekker, and that the combination is the product of impermissible hindsight. There is no evidence that this is the case. Additionally, applicant is applying a "lead one of ordinary skill" test, which is not the test for obviousness. There need not be a teaching suggestion or motivation to combine elements, as applicant seems to be alluding to by stating there is nothing that "would lead one of ordinary skill in the art" to the claimed invention. This allegation is not persuasive, since the prima facie case of obviousness has not been rebutted by evidence of a clear and convincing nature.

Regarding applicant allegation of impermissible hindsight, this is incorrect. The combination could be achieved by one of ordinary skill in the art, As set forth in the previous action. Applicant has provided no evidence that disputes this.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN M. MICHALSKI whose telephone number is (571)272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sean M Michalski/
Examiner, Art Unit 3724

/Kenneth E Peterson/

Primary Examiner, Art Unit 3724